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| 10/535,107   | 01/17/2006  | Andrea Doglioni Majer | MARGI-43            | 3574             |
| 23599 7590 11/07/2008<br>MILLEN, WHITE, ZELANO & BRANIGAN, P.C.<br>2200 CLARENDON BLVD.<br>SUITE 1400<br>ARLINGTON, VA 22201 |             |                       |                     |                  |
| EXAMINER<br>BAINBRIDGE, ANDREW PHILIP  |             |                       |                     |                  |
| ART UNIT   |             | PAPER NUMBER          |                     |                  |
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/535,107

**Applicant(s)**

DOGLIONI MAJER, ANDREA

**Examiner**

ANDREW P. BAINBRIDGE

**Art Unit**

3754

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 May 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SF/86)
- Paper No(s)/Mail Date 5/16/2005
- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date \_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_

**DETAILED ACTION**

***Claim Objections***

1. Claim 1 is objected to because of the following informalities: It appears that the Applicant intended to describe the "intake duct" as an "outlet duct". Appropriate correction is required.

***Drawings***

2. The drawings are objected to under 37 CFR 1.83(a) because they fail to show in figure 1 how to get the food product out of the tank 2 as the pipe 15 is labeled only as an "intake duct" as described in the specification. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the

examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. **Claims 1-11 are rejected under 35 U.S.C. 112, first paragraph**, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Specifically, it is not understood how the pump chamber works if it is connected to two intake ducts 8a-8b, but no outlet ducts are described.

Also, it is not understood how the liquid food product in tank 2 is withdrawn, as the only pipe shown is a pipe 15 to fill the tank but is incapable of emptying the tank as it does not reach into the tank 2.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

7. **Claims 1-3, 5 and 11 are rejected under 35 U.S.C. 103(a)** as being unpatentable over US 4,900,235 (Perkins et al.) in view of US 6,082,247 (Beaulicu).

8. Perkins in figures 1-6 discloses a reversible pump assembly 10 with an electric drive 16 with an inlet pipe 22 for a chamber 18 with two outlets 66 and 68 that are selectively closed by a piston 52, 58 and 60 that responds to the direction of rotation of an impeller 20. Perkins lacks a heating element for heating up liquids for drinks. Beaulicu in figures 1-2 teaches a drinks dispenser 10 with a heating element 42 that heats up liquids 12. It would be obvious to one of ordinary skill in the art to adapt Beaulicu to Perkins because Beaulicu teaches a way to heat up the liquid before it is presented to the Perkins chamber.

9. **Claims 1-5 and 11 are rejected under 35 U.S.C. 103(a)** as being unpatentable over US 4,728,260 (Ishii) in view of Beaulicu.

10. Ishii in figures 1-15 discloses a reversible pump assembly (see figure 1) with an electric drive motor 40 with an intake passage 49 to a chamber 46 with two outlets 52-53 that are selectively capped 54-55 depending on the rotation of the impeller 40 the chamber 46 being substantially a box-shaped shell 62 (see figures 3-7), the two outlets

52-53 being oriented at an angle with respect to the chamber 46. Ishii lacks a heating element for heating up liquids for drinks. As elaborated above, Beaulicu teaches these missing elements.

11. **Claims 1-3, 5 and 11 are rejected under 35 U.S.C. 103(a)** as being unpatentable over US 5,486,089 (Chung) in view of Beaulicu.

12. Chung in figures 1-4 discloses a reversible pump assembly 10 with an electric drive 24 with an inlet pipe 34 for a chamber (see figure 1) with two outlets 14, 16 that are selectively closed by a ball 30 that responds to the direction of rotation of an impeller 26. Chung lacks a heating element for heating up liquids for drinks. As elaborated above, Beaulicu teaches these missing elements.

13. **Claims 1-3, 5 and 11 are rejected under 35 U.S.C. 103(a)** as being unpatentable over US 4,874,298 (Mainardi et al.) in view of Beaulicu.

14. Mainardi in figures 1-7 discloses a reversible pump assembly 1 with an electric drive 2-3 with an inlet pipe 9 for a chamber 8 with two outlets 20-21 that are selectively closed by a stop 22-24 that responds to the direction of rotation of an impeller 6. Mainardi lacks a heating element for heating up liquids for drinks. As elaborated above, Beaulicu teaches these missing elements.

15. **Claim 6 is rejected under 35 U.S.C. 103(a)** as being unpatentable over Ishii in view of Beaulicu as applied in claim 1, and further in view of US 3,857,461 (Schmitt).

16. Ishii in view of Beaulicu as applied in claim 1 has all of the elements of claim 6 except for two pumps driven by the same electric motor by motion transmission means with an impeller, an intake opening, and at least one intake duct each, the two pumps

having opposite directions of rotation to activate the corresponding intake duct. Schmitt in figures 1-2 teaches two impellers 20, 22 that rotate in opposite directions driven by one electric motor (col. 2, lines 10-20) both impellers having their own intake opening 26, 30 and two outlets 32, 36 that can only be activated when the impellers are turned in the correct direction. It would be obvious to one of ordinary skill in the art to adapt Schmitt to the Ishii- Beaulicu combination because Schmitt provides a way to control the movement of the fluid much better than a single impeller, which can lead to higher levels of pressures created in many situations.

17. **Claim 7 and 10 are rejected under 35 U.S.C. 103(a)** as being unpatentable over Ishii in view of Beaulicu as applied in claim 3, and further in view of US 5,265,518 (Reese et al.).

18. Ishii in view of Beaulicu as applied in claim 3 has all of the elements of claims 7 and 10 except for the direction of rotation is controlled by an electronic interface that take directions from a selection keyboard. Reese in figures 1-9 teaches a vending machine 4 with a selection keyboard 6 that controls which product recipe is initiated 32. It would be obvious to adapt Reese to the Ishii- Beaulicu combination because Reese provides a well understood and reliable way to make the user experience a consistent one. .

19. **Claim 8-9 are rejected under 35 U.S.C. 103(a)** as being unpatentable over Ishii in view of Beaulicu as applied in claim 3, and further in view of US 5,759,604 (Bottlinger et al.).

20. Ishii in view of Beaulicu as applied in claim 3 has all of the elements of claims 8-9 except for the first and second outlets are each in fluid connection with at least a mixing device, the mixing device also in fluid connection with a second intake duct that supplies the mixing device with soluble products. Bottlinger In figures 1-7 teaches a disc mixer 12-13, 15 that is connected to an intake pipe 25 that provides all kinds of food products including soups (col. 3, lines 5-35), the intake pipe is capable of furnishing more than one ingredient to the mixing chamber 23 (col. 4, lines 25-40). It would be obvious to one of ordinary skill in the art to adapt Bottlinger to the Ishii- Beaulicu combination because Bottlinger teaches a way to combine several ingredients together before serving it, which can only increase the versatility in use of the Ishii device.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ANDREW P. BAINBRIDGE whose telephone number is (571)270-3767. The examiner can normally be reached on Monday to Thursday, 9:30 AM to 8:30 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Shaver can be reached on 571-272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/A. P. B./  
Examiner, Art Unit 3754

/Frederick C. Nicolas/  
Primary Examiner, Art Unit 3754